

**BOROUGH OF WESTWOOD
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
MINUTES
September 12, 2011**

APPROVED 10/3/11

1. OPENING OF THE MEETING

The meeting was called to order at approximately 8:00 p.m.

Open Public Meetings Law Statement:

This meeting, which conforms with the Open Public Meetings Law, Chapter 231, Public Laws of 1975, is a Regular Meeting of the Westwood Zoning Board.

Notices have been filed with our local official newspapers and posted on the municipal bulletin board.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL:

PRESENT: Guy Hartman
Christopher Owens
Raymond Arroyo, Vice-Chairman
William Martin, Chairman
Eric Oakes
Michael Bieri
Vernon McCoy (Alt #1)
Matthew Ceplo (Alt #2)

ALSO PRESENT: David Rutherford, Esq., Board Attorney

Attendance not required:

Louis Raimondi, Brooker Engineering,
Board Engineer
Steve Lydon, Burgis Associates,
Board Planner

ABSENT: Robert Bicocchi (excused absence)

4. MINUTES - The Minutes of the 8/1/11 meeting were approved on motion of Mr. Arroyo, seconded by Mr. Oakes and carried unanimously on roll call vote.

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5. CORRESPONDENCE:

1. Memo from Burgis Associates, dated 8/11/11 RE: Hinsdale;

2. Memo from Brooker Engineering dated 8/16/11 RE: Peck, 28 Sixth Avenue;

3. Memo from Burgis Associates, dated 8/30/11 RE: Peck, 28 Sixth Avenue;

6. VOUCHERS: A motion to approve vouchers totaling \$7,897.50 was made by Mr. Arroyo, seconded by Mr. Owens, and carried unanimously on roll call vote.

7. RESOLUTIONS:

1. Fodor, 43 Clairmont Street - Hardship Variance - Attorney Rutherford gave an overview of the application and approval. A motion for approval of the Resolution was made by Mr. Oakes and seconded by Mr. Hartman. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. Owens, Mr. McKoy, and Mr. Martin voted yes. Mr. Ceplo was not eligible to vote.

2. Rochford, 220 David Hooper, Block 303, Lot 28 - Certification of Non-Conforming Use - Attorney Rutherford gave an overview of the application and approval. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. Owens, Mr. McKoy, and Mr. Martin voted yes. Mr. Ceplo was not eligible to vote.

3. Rochford, 248 David Hooper, Block 303, Lot 44 - Certification of Non-Conforming Use - Attorney Rutherford gave an overview of the application and approval. A motion for approval of the Resolution was made by Mr. Arroyo and seconded by Mr. Oakes. There were no further questions, comments or discussions. On roll call vote, Mr. Arroyo, Mr. Hartman, Mr. Oakes, Mr. Owens, Mr. McKoy, and Mr. Martin voted yes. Mr. Ceplo was not eligible to vote.

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8. PENDING NEW BUSINESS:

1. **Peck, 28 Sixth Avenue - Variance Application -**
Scheduled for 10/3/11;

2. **Royer, 29 Eighth Avenue - Variance application -**
Scheduled for 10/3/11;

**9. VARIANCES, SUBDIVISIONS AND/OR SITE PLANS, APPEALS,
INTERPRETATIONS:**

SWEARING IN OF BOARD PROFESSIONALS FOR PUBLIC HEARINGS

1. **KMACK North, 39 Kinderkamack Road - Variance & Site Plan Approval -** Carried to the 11/7/11 meeting at the request of the applicants, since Mr. Rutherford was contacted by Mr. Lafferty, who advised they are still addressing completeness items of the Board Professionals, as well as completing the County review. These matters were carried pending completeness. Mr. Lafferty extended the time through 11/7/11.

2. **KMACK North, 40 Kinderkamack Road - Variance & Site Plan Approval -** Carried to the 11/7/11 meeting at the request of the applicants, since Mr. Rutherford was contacted by Mr. Lafferty, who advised they are still addressing completeness items of the Board Professionals, as well as completing the County review. These matters were carried pending completeness. Mr. Lafferty extended the time through 11/7/11.

3. **Arroyo, 6 Carolyn Street - Variance Application -** Raymond Arroyo recused himself and stepped down from the dais, as he is the applicant. Nancy Saccente, Esq. represented the applicant and provided the notice and publication affidavits. The property is in the R1 zone, and the lot size is 12,750 sq. ft.. The applicant seeks to erect an in-ground pool in the rear of the home. Mr. Arroyo was sworn in and questioned by his attorney. Mr. Arroyo testified his property was the subject of a prior subdivision. Since he owned the property, has added a front porch and addition to the rear for a kitchen, family area and third bedroom on the second floor. He lives in the house with his wife and teenage son.

At this time, they decided to get a pool since his wife has a condition called fibromyalgia, and this pool would be

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therapeutic, since it has jets. It is a one-piece fiberglass pool, which affords possibility of having a spa built right in. They also last a long time. Mr. Arroyo continued. There would be a concrete apron around the pool, with 3' coping, a fence to Code, and a safety cover. There was a concrete pad upon which the equipment would sit. The tallest component would be 48" high and would not be visible. They are also proposing a small patio in the rear of the home, since they are removing some of the macadam, reducing impervious coverage, and replace it with grass. This does not interfere with the use of the garage, since there are three bays, and one would be used for storage. The location for the pool is appropriate. In addition to turning macadam into lawn, he wanted to move the pool slightly away from the garage, and 10' from the property line would not be a detriment and would be sufficient. There are also three mature trees that line the fence on the neighbor's side and provide a screen.

With regard to the impervious coverage, presently it is 45.2%, which is already over the 40% allowed, and adding the pool, etc., would result in 50.5%. They tried to minimize same by turning some macadam into grass. Building coverage is 26.94% proposed; 22% allowed. There is also no noise issue. The applicant seeks variance relief for front yard setback and height of the garage, which are not changing and are existing, non-conformities. Mr. Martin commented there is no issue with the utility shed and not a variance.

Questions by the Board followed. Mr. Martin clarified with Ms. Saccente the two new variances: Setback for pool from side yard, 10' proposed; 15' required, and impervious coverage, although existing non-conforming, is being increased to 50.5%; 40% allowed. The existing coverage is 45.2%, and in looking at the pool, they are only going to 45.6%. Mr. Hartman asked if they are getting a heater, and commented it should not be too close to the house. Mr. Arroyo would look at this. Mr. Oakes asked if it would be salt water or chlorine, and Mr. Arroyo responded he was not certain yet. Salt water kills the grass, Mr. Oakes added, but it is better for the skin and more therapeutic. Mr. Owens commented about the garage, stating having a third bay is a hardship. It is an existing condition. Chairman Martin commented it looks like he located it correctly, and he agrees with Mr. Owens that the location of the garage on the property has forced him to locate the pool where he did and

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he is conforming in the rear, where he is not encumbered by existing structures, which under C1(c) is a hardship.

The matter was opened to the public, but there were no persons present, and the matter was closed. Chairman Martin commented Mr. Arroyo, the Board's Vice-Chairman, has done a very good job providing the information necessary for the Board to understand what he is proposing, and he appreciates that Mr. Arroyo is represented by legal counsel, which he believes is the proper way to present such an application, since he is a Vice-Chairman. Mr. Rutherford advised the MLUL provides that a Board Member should not be precluded from bringing an application before the Board, and it is best to do it through counsel, which provides a level of separation between the applicant and the Board. Mr. Oakes commented applicant should check the fire code if he is installing a heater. There were no further questions, comments or discussions. Chairman Martin called for a motion.

A motion for approval was made by Oakes, and seconded by Mr. Bieri. On roll call vote, Mr. Bieri, Mr. Hartman, Mr. Oakes, Mr. Owens, Mr. McKoy, Mr. Ceplo, and Mr. Martin voted yes.

Mr. Arroyo returned to the dais.

4. Hinsdale, 129 Lake Street - Variance Application - Withdrawn by applicant; letter received from Nancy Saccente, Esq., dated 9/12/11, who was also present.

10. DISCUSSION:

1. An Update on Master Plan Re-Examination - Mr. Martin gave an update as to the Planning Board's discussions at the last meeting.

11. ADJOURNMENT - On motions, made seconded and carried, the meeting was adjourned at approx. 9:00 p.m.

Respectfully submitted,

MARY R. VERDUCCI, Paralegal
Zoning Board Secretary